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ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2015-0302; FRL-9929-42]

Proposed Antimicrobial Pesticide Use Site Index; Notice of Availability and Request for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is announcing the availability of and requesting public comment on a proposed guidance document called the Antimicrobial Pesticide Use Site Index (USI). The Agency developed this document to provide guidance about antimicrobial pesticide use sites and general antimicrobial pesticide use patterns. This guidance document is intended to assist antimicrobial pesticide applicants and registrants by helping them to identify the 40 CFR part 158 subpart W data requirements that are necessary to register their product(s), and will likewise be used by Agency staff evaluating pesticide applications.

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2015-0302, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: Steven Weiss, Antimicrobials Division (7510P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; main telephone number: (703) 308-8293; email address: weiss.steven@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are a producer of pesticide products (NAICS 32532), antifoulants (NAICS 32551), antimicrobial pesticides (NAICS 32561), or wood preservatives (NAICS 32519), importers of such products, or any person or company who seeks to register an antimicrobial, antifoulant coating, ballast water treatment, or wood preservative pesticide or to obtain a tolerance for such a pesticide. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed could also be affected.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at <http://www.epa.gov/dockets/comments.html>.

C. How Can I Get Copies of this Document and Other Related Information?

A copy of the proposed guidance document is available in the docket under docket ID number EPA-HQ-OPP-2015-0302.

II. What Action is the Agency Taking?

The Agency is making available for comment a proposed guidance document called the "Antimicrobial Pesticide Use Site Index." In the **Federal Register** on May 8, 2013 (78 FR 26936) (FRL-8886-5), the Agency published a final rule amending 40 CFR part 158, the section of the regulations setting forth the data requirements that support an application to register a

pesticide product. The final rule, which is codified as 40 CFR part 158 subpart W (158W), contains the data requirements specifically applicable to antimicrobial pesticides. The rule became effective July 8, 2013.

The proposed guidance document serves as a compilation of the specific use sites that are commonly listed on antimicrobial labels. The specific use sites are further organized into categories of twelve general use patterns. The general use patterns are broad designations and are used as columns in the antimicrobial data requirements tables to identify which data requirements might be pertinent to the particular pesticide use site. The Agency has developed the proposed guidance document to provide additional information about these use patterns. This guidance document is intended to assist antimicrobial pesticide applicants and registrants by helping them to identify the data requirements that are necessary to register their product(s), and will likewise be used by Agency staff evaluating antimicrobial pesticide applications.

As a guidance document, the association of a particular antimicrobial use site with a general antimicrobial use pattern should be viewed as a recommendation only and is not to be construed as binding on either EPA or any outside parties. EPA may depart from the guidance where circumstances warrant and without prior notice.

The posting of this proposed guidance document for public comment satisfies a condition of the March 2, 2015, settlement agreement between EPA and the American Chemistry Council (ACC), which followed ACC's July 2013 initiation of a legal challenge to the data requirements regulation (subpart 158W of Title 40 of the Code of Federal Regulations) in the U.S. Court of Appeals for the District of Columbia Circuit. Under that settlement agreement, the Agency committed to taking comment on this proposed guidance document within 4 months of the effective date of the settlement agreement.

Authority: 7 U.S.C. 136-136y and 21 U.S.C. 346a.

Dated: June 24, 2015.

Jim Jones,

Assistant Administrator,

Office of Chemical Safety and Pollution Prevention.

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